

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2005-15-C - ORDER NO. 2005-413
AUGUST 31, 2005

IN RE: Generic Proceeding Established Pursuant to Order Number 2004-466 to address the Appropriate Rate Classification or Rate Structure for Telephone Lines Located in Elevators and for Telephone Lines Located in Proximity to Swimming Pools.) ORDER PROVIDING) THAT THE COMMISSION) TAKE NO ACTION) CONCERNING THE) RATE CLASSIFICATION) OR RATE STRUCTURE) FOR TELEPHONE LINES) LOCATED IN) ELEVATORS OR IN) CLOSE PROXIMITY TO) SWIMMING POOLS
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This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of a generic proceeding pursuant to Commission Order No. 2004-466 to address the appropriate rate classification or rate structure for telephone lines located in elevators and for telephone lines located in proximity to swimming pools. In Order No. 2004-466, the Commission established this generic proceeding so that the Commission could receive relevant information related to the potential impact of the reclassification of these types of telephone lines, such as those required by code or regulation to be located in elevators and in close proximity to public swimming pools. According to Order No. 2004-466, relevant information which the Commission sought on the reclassification of such telephone lines could include, *inter alia*, information related to the reclassification of telephone lines, which are typically required by code or

regulation to be installed for safety or emergency use, from business to residential or the creation of a new separate classification of such lines.

A hearing was scheduled in this matter before the Commission for April 13, 2005, at 10:30 am. A Notice of Filing and Hearing was published in newspapers of general circulation in the affected areas. In response to the Notice, a number of parties intervened. Those parties filing to intervene included Verizon South, Inc., United Telephone and Sprint Communications, the South Carolina Telephone Coalition, Rufus S. Watson, Jr., for himself and Bay Meadows Homeowners Association (“The Association”), the South Carolina Public Communications Association, and BellSouth Telecommunications, Inc. The Office of Regulatory Staff was also made a party to this matter. These parties prefiled various testimony and pre-hearing briefs in support of their diverse positions in this matter.

At the hearing, Mr. Rufus Watson, on behalf of himself and the Association, testified that the Association was not a business, per se, and thus should not pay a business rate for the phones which it was required to have both on its elevators and in the vicinity of the pool. Mr. Watson further offered his opinion that as these phones were not used to conduct business, and in fact could only be used to call emergency services, that they should be billed the lower residential rate.

In opposition to Mr. Watson’s testimony, Verizon and BellSouth offered evidence that these phone lines were paid for by the Association, which Mr. Watson admitted on cross-examination was a corporate entity with a Board of Directors. Mr. Watson further admitted under cross examination that the Association both holds an account from Santee

Cooper for power and an insurance policy in the Association name. Finally, it was established that the phone lines in question are located in commons areas managed by the Association.

Based on the documents and testimony presented to this Commission by the intervening parties in this matter, we hereby make the following Findings and Conclusions:

FINDINGS OF FACT

1. This matter was initiated as a Generic Proceeding pursuant to Commission Order No. 2004-466 to allow the Commission to address the appropriate rate classification or rate structure for telephone lines located in elevators and in close proximity to swimming pools in accordance with state and local laws or regulations.

2. The Generic Docket in this matter was initiated by the Commission as a result of its Order Holding Disposition in Abeyance and Creating Generic Docket in the case of *In Re: Rufus Watson, Bay Meadows Homeowners Assn. v. Horry Telephone Cooperative*, Order No. 2004-466 in Docket No. 2003-221-C. (October 5, 2004).

3. Telephone lines in public elevators and near public swimming pools are typically toll-restricted and rarely, if ever, used. These phones are also typically charged by local telephone service providers as business phones at approved business-line rates.

4. The South Carolina Department of Health and Environmental Control (“DHEC”) has promulgated regulations governing the operation of public swimming pools in this State (24A S.C. Code Ann. Regs. 61-51 (Supp. 2004)), and the South Carolina Department of Labor, Licensing, and Regulation (“LLR”) has promulgated

regulations governing the operation of elevator facilities in South Carolina (26 S.C. Code Ann. Regs. 71-5000, et. seq. (Supp. 2004)).

5. The Commission finds that all swimming pools that are **not** located on private property in connection with a single family residence are “public swimming pools” as defined by DHEC regulations. See, R. 61-51(A)(43). We further find that all such public swimming pools are required by DHEC regulations to have a device for notifying emergency personnel located nearby (R. 61-51(C)(12)). This Commission therefore also finds that while any Order from this Commission regarding the rate classification or rate structure of telephones at pools would affect lines located at most “public swimming pools” that such Order would have no affect on residential swimming pools or their owners.

6. DHEC Regulation R. 61-51.C12 provides in relevant part that, “A toll free telephone **or other device** to notify emergency personnel must be provided within a two hundred (200) foot walking distance of the pool....” (emphasis added). We find that this regulation may be complied with by public swimming pool operators by using a traditional land telephone line **or** by making available other devices such as a cell phone or other wireless device.

7. We find that state laws and regulations regarding elevators are not applicable to those located on or in private residences. See, S.C. Code Ann. Sec. 41-16-30.

8. We find that under the authority of the South Carolina Elevator Code, S.C. Code Ann. Sec. 41-16-10, et. seq., the South Carolina Department of Labor, Licensing,

and Regulation has promulgated Regulation 71-5100.1 which mandates that all non-single family residence elevators contain “means of two-way conversation between the car and a readily accessible point outside the hoistway....” We further find that this regulation does not require the operators of such public elevators to maintain a traditional landline telephone in their elevator(s) but allows for the use of an intercom or similar device to comply with the regulation.

9. The Commission finds that, while standard business line rates may be greater than standard residential rates, which are generally below cost, there is no requirement under South Carolina law or under the regulations of DHEC or LLR that pools or elevators have such landline telephones. Alternatives such as cellular, other wireless service or intercoms and certain reduced price business options are available for use in these locations.

10. We therefore find that there is no need for this Commission to take any action at this time regarding the rate classification or rate structure for telephone lines located in elevators or in close proximity to swimming pools.

CONCLUSIONS OF LAW

1. The Commission concludes that the South Carolina statutory and regulatory laws which require communications facilities at public swimming pools and in public elevators do not require that those communications be landline telephones.

2. The Commission concludes that as these laws and regulations allow for alternative communications, such as cellular telephones or intercom systems, the telephone business rates typically charged the owners/operators of such pools and

elevators may be avoided through the use of one of these alternative communications systems or products.

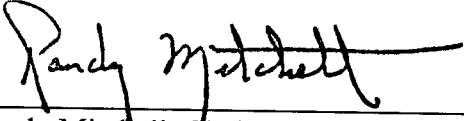
3. The Commission concludes that as such alternative systems may be used to fulfill the statutory and regulatory mandates, that there is no need for this Commission to take any action regarding the rate classification or rate structure for telephone lines located in elevators or in close proximity to public swimming pools.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

The Commission shall take no action regarding the rate classification or rate structure for telephone lines located in elevators and for telephone lines located in proximity to swimming pools.

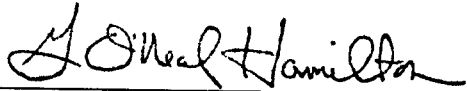
This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Randy Mitchell, Chairman

ATTEST:



G. O'Neal Hamilton, Vice Chairman

(SEAL)